

AMENDED IN ASSEMBLY APRIL 11, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1603**

**Introduced by Assembly Member Shirley Horton**

February 22, 2005

---

An act to amend Section 14202.2 of the Penal Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1603, as amended, Shirley Horton. ~~Sexually violent predators~~  
*High-risk sex offenders.*

*Existing law authorizes a local law enforcement agency to advise the public of the presence of high-risk sex offenders, as defined, in its community.*

*This bill would instead require a local law enforcement agency to advise persons determined to be in a "risk zone" of the presence of a high-risk sex offender. The bill would require a local law enforcement agency to designate a "risk zone" within its jurisdiction for any given offender, as specified. The bill would require that agency to make public specific information about that offender to persons in that "risk zone." Because the bill would impose additional duties on local law enforcement agencies, the bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state,*

*reimbursement for those costs shall be made pursuant to these statutory provisions.*

~~Existing law requires the Director of Corrections, prior to the release of a person from custody resulting from conviction for certain crimes of a sexual nature against 2 or more victims, to refer the person to the State Department of Mental Health for evaluation. The law authorizes civil commitment for a 2-year term, as a sexually violent predator, if the person is adjudicated to be likely to engage in sexually violent criminal behavior if discharged.~~

~~Under existing law, if the court finds that the person is no longer likely to commit acts of predatory sexual violence while under supervision and treatment in the community, it is required to order a one-year community placement with an appropriate forensic conditional release program operated by the state.~~

~~Existing law requires the Department of Justice, in consultation with the State Department of Mental Health, to update any supervised release file available to law enforcement agencies, including, but not limited to, the California Law Enforcement Telecommunications System, to reflect among others, patients undergoing community mental health treatment through the sexually violent predator conditional release program.~~

~~This bill would require the Department of Justice, in consultation with the State Department of Mental Health to report to the Legislature by June 1, 2006, the total number of persons released to the community pursuant to the forensic conditional release program who have violated the registration requirements set forth in the terms of their conditional release.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~yes.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 14202.2 of the Penal Code is amended~~  
2     ~~to read:~~

3     ~~SECTION 1. Section 290.45 of the Penal Code is amended to~~  
4     ~~read:~~

5     ~~290.45. (a) (1) When a peace officer reasonably suspects,~~  
6     ~~based on information that has come to his or her attention~~  
7     ~~through information provided by any peace officer or member of~~  
8     ~~the public, that a child or other person may be at risk from a sex~~

1 offender convicted of a crime listed in paragraph (1) of  
2 subdivision (a) of Section 290.4, a law enforcement agency may,  
3 notwithstanding any other provision of law, provide any of the  
4 information specified in paragraph (4) of this subdivision about  
5 that registered sex offender that the agency deems relevant and  
6 necessary to protect the public, to the following persons,  
7 agencies, or organizations the offender is likely to encounter,  
8 including, but not limited to, the following:

9 (A) Public and private educational institutions, day care  
10 establishments, and establishments and organizations that  
11 primarily serve individuals likely to be victimized by the  
12 offender.

13 (B) Other community members at risk.

14 (2) The law enforcement agency may authorize persons and  
15 entities who receive the information pursuant to paragraph (1) to  
16 disclose information to additional persons only if the agency does  
17 the following:

18 (A) Determines that all conditions set forth in paragraph (1)  
19 have been satisfied regarding disclosure to the additional persons.

20 (B) Identifies the appropriate scope of further disclosure.

21 (3) Persons notified pursuant to paragraph (1) may disclose the  
22 information provided by the law enforcement agency in the  
23 manner and to the extent authorized by the law enforcement  
24 agency.

25 (4) The information that may be disclosed pursuant to this  
26 section includes the following:

27 (A) The offender's full name.

28 (B) The offender's known aliases.

29 (C) The offender's gender.

30 (D) The offender's race.

31 (E) The offender's physical description.

32 (F) The offender's photograph.

33 (G) The offender's date of birth.

34 (H) Crimes resulting in registration under Section 290.

35 (I) The offender's address, which must be verified prior to  
36 publication.

37 (J) Description and license plate number of offender's vehicles  
38 or vehicles the offender is known to drive.

39 (K) Type of victim targeted by the offender.

1 (L) Relevant parole or probation conditions, such as one  
2 prohibiting contact with children.

3 (M) Dates of crimes resulting in classification under Section  
4 290.

5 (N) Date of release from confinement.

6 (O) The offender's enrollment, employment, or vocational  
7 status with any university, college, community college, or other  
8 institution of higher learning.

9 However, information disclosed pursuant to this subdivision  
10 shall not include information that would identify the victim.

11 (5) If a law enforcement agency discloses information  
12 pursuant to this subdivision, it shall include, with the disclosure,  
13 a statement that the purpose of the release of the information is to  
14 allow members of the public to protect themselves and their  
15 children from sex offenders.

16 (6) For purposes of this section, "likely to encounter" means  
17 both of the following:

18 (A) That the agencies, organizations, or other community  
19 members are in a location or in close proximity to a location  
20 where the offender lives or is employed, or that the offender  
21 visits or is likely to visit on a regular basis.

22 (B) The types of interaction that ordinarily occur at that  
23 location and other circumstances indicate that contact with the  
24 offender is reasonably probable.

25 (7) For purposes of this section, "reasonably suspects" means  
26 that it is objectively reasonable for a peace officer to entertain a  
27 suspicion, based upon facts that could cause a reasonable person  
28 in a like position, drawing when appropriate on his or her  
29 training and experience, to suspect that a child or other person is  
30 at risk.

31 (8) For purposes of this section, "at risk" means a person is or  
32 may be exposed to a risk of becoming a victim of a sex offense  
33 committed by the offender.

34 (9) A law enforcement agency may continue to disclose  
35 information on an offender under this subdivision for as long as  
36 the offender is included in Section 290.4.

37 (b) In addition to the procedures set forth elsewhere in this  
38 section, a designated law enforcement entity ~~may~~ *shall* advise ~~the~~  
39 ~~public~~ *persons determined to be in the "risk zone"* of the

1 presence of high-risk sex offenders ~~in its community~~ pursuant to  
2 this subdivision.

3 (1) For purposes of this subdivision:

4 (A) A high-risk sex offender is a person who has been  
5 convicted of an offense specified in paragraph (1) of subdivision  
6 (a) of Section 290.4, and also meets one of the following criteria:

7 (i) Has been convicted of three or more violent sex offenses, at  
8 least two of which were brought and tried separately.

9 (ii) Has been convicted of two violent sex offenses and one or  
10 more violent nonsex offenses, at least two of which were brought  
11 and tried separately.

12 (iii) Has been convicted of one violent sex offense and two or  
13 more violent nonsex offenses, at least two of which were brought  
14 and tried separately.

15 (iv) Has been convicted of either two violent sex offenses or  
16 one violent sex offense and one violent nonsex offense, at least  
17 two of which were brought and tried separately, and has been  
18 arrested on separate occasions for three or more violent sex  
19 offenses, violent nonsex offenses, or associated offenses.

20 (v) Has been adjudicated a sexually violent predator pursuant  
21 to Article 4 (commencing with Section 6600) of Chapter 2 of  
22 Part 2 of Division 6 of the Welfare and Institutions Code.

23 (B) A violent sex offense means any offense defined in  
24 Section 220, except attempt to commit mayhem, or Section 261,  
25 264.1, 286, 288, 288a, 288.5, 289, or 647.6, or infliction of great  
26 bodily injury during the commission of a sex offense, as provided  
27 in Section 12022.8.

28 (C) A violent nonsex offense means any offense defined in  
29 Section 187, subdivision (a) of Section 192, or Section 203, 206,  
30 207, or 236, provided that the offense is a felony, subdivision (a)  
31 of Section 273a, Section 273d or 451, or attempted murder, as  
32 defined in Sections 187 and 664.

33 (D) An associated offense means any offense defined in  
34 Section 243.4, provided that the offense is a felony, Section  
35 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, 311.7, or 314, Section  
36 459, provided the offense is of the first degree, Section 597 or  
37 646.9, subdivision (d), (h), or (i) of Section 647, Section 653m,  
38 or infliction of great bodily injury during the commission of a  
39 felony, as defined in Section 12022.7.

1 (E) For purposes of subparagraphs (B) to (D), inclusive, an  
2 arrest or conviction for the statutory predecessor of any of the  
3 enumerated offenses, or an arrest or conviction in any other  
4 jurisdiction for any offense that, if committed or attempted in this  
5 state, would have been punishable as one or more of the offenses  
6 described in those subparagraphs, is to be considered in  
7 determining whether an offender is a high-risk sex offender.

8 (F) For purposes of subparagraphs (B) to (D), inclusive, an  
9 arrest as a juvenile or an adjudication as a ward of the juvenile  
10 court within the meaning of Section 602 of the Welfare and  
11 Institutions Code for any of the offenses described in those  
12 subparagraphs is to be considered in determining whether an  
13 offender is a high-risk sex offender.

14 (G) Notwithstanding subparagraphs (A) to (D), inclusive, an  
15 offender shall not be considered to be a high-risk sex offender if  
16 either of the following apply:

17 (i) The offender's most recent conviction or arrest for an  
18 offense described in subparagraphs (B) to (D), inclusive,  
19 occurred more than five years prior to the high-risk assessment  
20 by the Department of Justice, excluding periods of confinement.

21 (ii) The offender notifies the Department of Justice, on a form  
22 approved by the department and available at any sheriff's office,  
23 that he or she has not been convicted in the preceding 15 years,  
24 excluding periods of confinement, of an offense for which  
25 registration is required under paragraph (2) of subdivision (a) of  
26 Section 290, and the department is able, upon exercise of  
27 reasonable diligence, to verify the information provided in  
28 paragraph (2).

29 (H) "Confinement" means confinement in a jail, prison,  
30 school, road camp, or other penal institution, confinement in a  
31 state hospital to which the offender was committed as a mentally  
32 disordered sex offender under Article 1 (commencing with  
33 Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare  
34 and Institutions Code, or confinement in a facility designated by  
35 the Director of Mental Health to which the offender was  
36 committed as a sexually violent predator under Article 4  
37 (commencing with Section 6600) of Chapter 2 of Part 2 of  
38 Division 6 of the Welfare and Institutions Code.

39 (I) "Designated law enforcement entity" means any of the  
40 following: municipal police department; sheriff's department;

1 district attorney's office; county probation department;  
2 Department of Justice; Department of Corrections; Department  
3 of the Youth Authority; Department of the California Highway  
4 Patrol; the police department of any campus of the University of  
5 California, California State University, or community college.  
6 "Designated law enforcement entity" shall also mean the police  
7 department of any school district, as defined in subdivision (b) of  
8 Section 830.32, except that nothing in this subdivision shall  
9 authorize these departments to make disclosures about registrants  
10 intended to reach persons beyond the school community.

11 (J) "School community" means those persons present at, those  
12 persons regularly frequenting, and the parents of any student  
13 attending, a school providing instruction in kindergarten or  
14 grades 1 to 12, inclusive, or any place associated with one of  
15 these schools. A place associated with a school includes  
16 campuses; administrative and educational offices; laboratories;  
17 satellite facilities owned or utilized by the school for educational  
18 instruction, business, or school events; and public areas  
19 contiguous to any school or facility that are frequented by  
20 students, employees, or volunteers of the school.

21 (K) *Each local law enforcement agency shall designate a "risk*  
22 *zone" within its jurisdiction that is applicable to a given*  
23 *offender. In determining a "risk zone," the agency may consider*  
24 *places frequented by children, areas frequented by the offender,*  
25 *areas frequented by the type of person that the offender has a*  
26 *history of victimizing, and natural or manmade geographic*  
27 *boundaries.*

28 (2) The Department of Justice shall continually search the  
29 records provided to it pursuant to subdivision (b) of Section 290  
30 and identify, on the basis of those records, high-risk sex  
31 offenders. Four times each year, the department shall provide to  
32 each chief of police and sheriff in the state, and to any other  
33 designated law enforcement entity upon request, the following  
34 information regarding each identified high-risk sex offender: full  
35 name; known aliases; gender; race; physical description;  
36 photograph; date of birth; and crimes resulting in classification  
37 under this section.

38 (3) The Department of Justice and any designated law  
39 enforcement entity to which notice has been given pursuant to  
40 paragraph (2) ~~may cause to be made~~ *make public, and the local*

1 *law enforcement agency shall make public to persons in the “risk*  
2 *zone,” by whatever means the agency deems necessary to ensure*  
3 *the public safety, based upon information available to the agency*  
4 *concerning a specific person, including, but not limited to, the*  
5 *information described in paragraph (2); the offender’s address,*  
6 *which shall be verified prior to publication; description and*  
7 *license plate number of the offender’s vehicles or vehicles the*  
8 *offender is known to drive; type of victim targeted by the*  
9 *offender; relevant parole or probation conditions, such as one*  
10 *prohibiting contact with children; dates of crimes resulting in*  
11 *classification under this section; and date of release from*  
12 *confinement; but excluding information that would identify the*  
13 *victim.*

14 (4) Notwithstanding any other provision of law, any person  
15 described in paragraph (2) of subdivision (d) who receives  
16 information from a designated law enforcement entity pursuant  
17 to paragraph (3) may disclose that information in the manner and  
18 to the extent authorized by the law enforcement entity.

19 (5) The law enforcement agency may authorize persons and  
20 entities who receive the information pursuant to paragraph (3) to  
21 disclose information to additional persons only if the agency does  
22 the following:

23 (A) Determines that all conditions set forth in this subdivision  
24 have been satisfied regarding disclosure to the additional persons.

25 (B) Identifies the appropriate scope of further disclosure.

26 (c) Agencies disseminating information to the public pursuant  
27 to subdivision (b) shall maintain records of the means and dates  
28 of dissemination for a minimum of five years.

29 (d) (1) Any law enforcement agency and employees of any  
30 law enforcement agency shall be immune from liability for good  
31 faith conduct under this section. For the purposes of this section,  
32 “law enforcement agency” means the Attorney General of  
33 California, every district attorney, the Department of Corrections,  
34 the Department of the Youth Authority, and every state or local  
35 agency expressly authorized by statute to investigate or prosecute  
36 law violators.

37 (2) Any public or private educational institution, day care  
38 facility, or any child care custodian described in Section 11165.7,  
39 or any employee of a public or private educational institution or  
40 day care facility which in good faith disseminates information as



1 authorized pursuant to paragraph (3) of subdivision (a) or  
2 paragraph (4) of subdivision (b) that is provided by a law  
3 enforcement agency or an employee of a law enforcement agency  
4 shall be immune from civil liability.

5 (e) (1) Any person who uses information disclosed pursuant  
6 to this section to commit a felony shall be punished, in addition  
7 and consecutive to any other punishment, by a five-year term of  
8 imprisonment in the state prison.

9 (2) Any person who uses information disclosed pursuant to  
10 this section to commit a misdemeanor shall be subject to, in  
11 addition to any other penalty or fine imposed, a fine of not less  
12 than five hundred dollars (\$500) and not more than one thousand  
13 dollars (\$1,000).

14 (f) The public notification provisions of this section are  
15 applicable to every person described in this section, without  
16 regard to when his or her crimes were committed or his or her  
17 duty to register pursuant to Section 290 arose, and to every  
18 offense described in this section, regardless of when it was  
19 committed.

20 *SEC. 2 If the Commission on State Mandates determines that*  
21 *this act contains costs mandated by the state, reimbursement to*  
22 *local agencies and school districts for those costs shall be made*  
23 *pursuant to Part 7 (commencing with Section 17500) of Division*  
24 *4 of Title 2 of the Government Code.*

25 ~~14202.2. (a) The Department of Justice, in conjunction with~~  
26 ~~the Department of Corrections, shall update any supervised~~  
27 ~~release file that is available to law enforcement on the California~~  
28 ~~Law Enforcement Telecommunications System every 10 days to~~  
29 ~~reflect the most recent inmates paroled from facilities under the~~  
30 ~~jurisdiction of the Department of Corrections.~~

31 ~~(b) Commencing on July 1, 2001, The Department of Justice,~~  
32 ~~in consultation with the State Department of Mental Health, shall~~  
33 ~~also update any supervised release file that is available to law~~  
34 ~~enforcement on the California Law Enforcement~~  
35 ~~Telecommunications System every 10 days to reflect patients~~  
36 ~~undergoing community mental health treatment and supervision~~  
37 ~~through the Forensic Conditional Release Program administered~~  
38 ~~by the State Department of Mental Health, other than individuals~~  
39 ~~committed as incompetent to stand trial pursuant to Chapter 6~~  
40 ~~(commencing with Section 1367) of Title 10 of Part 2.~~

1     ~~(e) The Department of Justice, in consultation with the State~~  
2     ~~Department of Mental Health shall report to the Legislature by~~  
3     ~~June 1, 2006, the total number of persons released to the~~  
4     ~~community pursuant to the Forensic Conditional Release~~  
5     ~~Program pursuant to Article 4 (commencing with Section 6600)~~  
6     ~~of Chapter 2 of Part 2 of Division 6 of the Welfare and~~  
7     ~~Institutions Code, who have violated the registration~~  
8     ~~requirements set forth in the terms of their conditional release.~~

O